

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

April 15, 2009

Elisabeth A. Shumaker
Clerk of Court

KEITH V. MENEFEE; DUSTIN S.
BLEVINS,

Plaintiffs - Appellants,

v.

ROGER WERHOLTZ, Secretary of
Corrections, Kansas Department of
Corrections; ELIZABETH RICE,
Interstate Compact Coordinator, Kansas
Department of Corrections; JOHNNIE
GODDARD, Warden, Ellsworth
Correctional Facility; SHARON COX,
Unit Team Manager, Ellsworth
Correctional Facility; MARK
RADENBERG, Unit Team Counselor,
Ellsworth Correctional Facility; and
MARTY SAUERS, Classification
Administrator, Ellsworth Correctional
Facility, in their individual and official
capacities,

Defendants - Appellees.

No. 09-3068
(D.C. No. 5:08-CV-3314-SAC)
(D. Kansas)

ORDER

Before **McCONNELL**, **TYMKOVICH**, and **HOLMES**, Circuit Judges.

Plaintiffs Keith Menefee and Dustin Blevins, proceeding *pro se*, appeal from that part of the district court's March 4, 2009 Order severing Dustin Blevins as a party in the

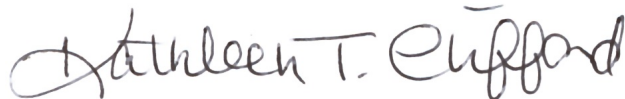
underlying prisoner civil rights action and directing that a new case be opened with Dustin Blevins as the only Plaintiff. We dismiss the appeal for lack of jurisdiction. The district court order appealed is interlocutory.

“Federal appellate jurisdiction generally depends on the existence of a decision by the District Court that ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’ ” *Federal Deposit Insurance Corp. v. McGlamery*, 74 F.3d 218, 221 (10th Cir. 1996) (quoting *Coopers & Lybrand v. Liversay*, 437 U.S. 463, 467 (1978)). The Supreme Court has stressed that very few types of interlocutory orders qualify as immediately appealable collateral orders. The requirements are strict. *See Will v. Hallock*, 546 U.S. 345, 349 (2006).

Upon review, the court finds that the March 4, 2009 Order being appealed does not constitute a final or immediately appealable decision under 28 U.S.C. § 1291 or under any recognized exception to the final judgment rule. The order may be appealed upon entry of final judgment in the civil rights action.

The appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is fluid and cursive, with the first name "Kathleen" being more prominent and the last name "Clifford" following in a similar style.

Kathleen T. Clifford
Attorney - Deputy Clerk